

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 304

Call to Order: By **SEN. ROYAL JOHNSON**, on April 15, 2003 at 4:25 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Royal Johnson, Chairman (R)
Rep. Dave Lewis, Vice-Chairman (R)
Sen. Sherm Anderson (R)
Rep. Penny Morgan (R)
Rep. Bill Wilson (D)

Members Excused: Sen. Vicki Cocchiarella (D)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Services Division
Marion Mood, Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:
Executive Action: SB 304

CHAIRMAN ROYAL JOHNSON, SD 5, BILLINGS, opened the Free Conference Committee on SB 304 and stated the amendments **REP. JOE MCKENNEY, HD 49, GREAT FALLS**, requested had to do with the committee make-up, determining the role of the compensation insurance fund, and the creation of an assigned risk pool. **Mr. Campbell** advised **REP. BOB BERGREN, HD 90, HAVRE**, amended the bill so that the Fund also look at the assigned risk pool, and **REP. JIM KEANE, HD 36, BUTTE**, had brought an amendment which made the study look at the overall function of the State Fund rather than have it just look at the sale. **CHAIRMAN JOHNSON** asked him to briefly go over each amendment, and **Mr. Campbell** complied by stating **Amendment SB 304-1**, front page of

EXHIBIT(frs81sb0304a01), applied to page 1, line 26 on the orange bill and striking "agent" and inserting "representative" to clarify "agent" did not mean "insurance agent" but rather, a representative of those entities. Under (3) on page 2 of the orange bill, the sponsor had inserted "not to exceed \$100,000" and he had amended the underlined portion. This was changed by a floor amendment, though; "State Fund" was stricken and "Department of Labor & Industry" was inserted by **REP. SYLVIA BOOKOUT-REINICKE, HD 71, ALBERTON**. The next amendments changed the focus of the study to include more than just looking at the possible sale; the reason behind the creation of an assigned risk pool was if a sale was contemplated, there would not be an insurer of last resort, and it needed to be known how the assigned risk pool operated. **CHAIRMAN JOHNSON** stated he did not have a problem with it but questioned the necessity of an assigned risk pool if the State Fund's functions were to be studied. He stressed it was imperative to study the State Fund, its current operation and future plans; if a sale was to occur, these amendments were needed. **Mr. Campbell** agreed with his assessment but cautioned these amendments widened the scope of the study and item (13) struck the requirement that the committee solicit proposals for the purchase of the State Fund. He clarified the amendments did not preclude the committee from soliciting proposals but it was no longer mandatory. **CHAIRMAN JOHNSON** inquired if representatives from the State Fund had a problem with this, and **Nancy Butler** replied she did not.

REP. PENNY MORGAN, HD 21, BILLINGS, advised she supported this amendment because not having to solicit bids would make the \$100,000 go further. **CHAIRMAN JOHNSON** stated according to a cost estimate by the State Fund, soliciting bids would cost \$650,000; he added this committee could not sell the State Fund, it could merely suggest to the Legislature this should be done, and he was hopeful the study process would take much less than the estimated \$100,000. **REP. MORGAN** repeated the requirement to solicit bids was stricken by the House Business and Labor committee to give more flexibility to the committee. **CHAIRMAN JOHNSON** asked **Mr. Campbell** to explain the term "flexibility" in this context, and he explained if the committee determined it was in the state's best interest to sell all or a portion of the State Fund, the bill said "they shall solicit proposals for the purchase"; the House Business and Labor Committee felt obligating them to solicit bids was restrictive.

SEN. SHERM ANDERSON, SD 28, DEER LODGE, inquired if item (13) should be segregated, and **CHAIRMAN JOHNSON** agreed, suggesting the committee vote on the amendments one by one. **REP. DAVE LEWIS, HD 55, HELENA**, outlined what was left, namely the Department of

Labor was to give \$100,000 to the State Fund to study whether it was cost-effective to sell all or a portion of the State Compensation Insurance Fund, and to include the study of an assigned risk pool. **CHAIRMAN JOHNSON** apologized for having used the word "study" in the bill; what he intended to do was to take a look at the State Fund and its operation, including five-year plans, and how it compared to other Funds. He felt this would not necessitate spending \$100,000; for that reason, he had specified "up to \$100,000." He asked **REP. MORGAN** to explain the amendments in the House Standing Committee Report, pages 2 and 3 of EXHIBIT (1), which she did as follows: item (1) was added to expand the study so it would not just focus on a sale. Item (2) was added because should it come to a sale, an assigned risk pool would have to be created; she added a similar pool already existed within the State Fund but was not labeled as such. Item (3) was self-explanatory, and (4) again provided the committee with more latitude. Item (5) followed through with the title; item (6) had been discussed at the outset, changing "agent" to "representative". Item (7) was the chairman's amendment, ensuring the study would not exceed \$100,000. Items (8) through (12) expanded the scope of the study; the creation of an assigned risk pool was amended in so people would still have an "insurance of last resort" should the State Fund be sold. She contended (13) was a good amendment; if the group doing the study came to the conclusion a sale would be a good idea, it was in fact a recommendation to the next Legislature, and it would be premature to go out and solicit bids at that point.

CHAIRMAN JOHNSON was not convinced (13) was a good idea and commented if a sale was contemplated, one needed to know the value and who might be interested in purchasing it. **REP. MORGAN** repeated this would not prohibit the committee from soliciting proposals, it merely was no longer mandatory.

Ms. Butler as well as **Jerry Keck, Department of Labor & Industry**, both stated their agreements with these amendments.

Motion/Vote: **REP. MORGAN MOVED TO ADOPT ITEMS (1) THROUGH (13).**
Motion passed unanimously.

CHAIRMAN JOHNSON asked **REP. MORGAN** to explain the idea behind **REP. BOOKOUT-REINECKE's** amendments. She stated the representative felt the Department of Labor & Industry rather than the State Fund should provide support and oversight in order to keep it neutral and to remove the pressure from the Fund's employees who would have to come forward and supply information.

When **CHAIRMAN JOHNSON** asked for comments from State Fund representatives, **Ms. Butler** stepped forward and stated their main

concern was with the floor amendment. They understood the Legislature was interested in the study and while the State Fund did not oppose the concept, they felt the issue was how it would be funded; , **CHAIRMAN JOHNSON**, had opposed making it a Senate Joint Study because its fate would not be clear until adjournment; if it was assigned to an interim legislative committee, it would create a conflict of interest because the State Fund should not fund this study, and general fund money was scarce. Thus, the chairman had decided the State Fund should finance the study, and it was her concern if State Fund premium dollars were used, they had to be kept informed on how this money was used. If the State Fund was to be removed, as this amendment suggested, she contended some other way of funding the study needed to be found. She went on to say she preferred keeping the collaboration between the Fund and the committee as the bill had directed originally, but it was absolutely imperative there would not be a conflict of interest; the Fund would provide meeting rooms and secretarial staff, and whatever information they needed to do the study, but it would have to be strictly under the direction of the committee.

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CHAIRMAN JOHNSON invited comments from the Department of Labor & Industry, and **Mr. Jerry Keck** came forward to give his perspective. He stated his office carried out the regulatory functions relating to the Workers' Compensation System. If they were thrust into the middle of this study, he was concerned it might compromise the agency's view of their role as a neutral regulator; he felt it would be a contentious study because both sides felt strongly about the issue but added his office certainly had the expertise to deal with it and would assume whichever role the committee assigned them.

REP. MORGAN inquired why the State Fund insisted on collaborating on this study. **Ms. Butler** replied the law required premium dollars be used only for the purpose for which they were collected; to her, this meant paying the claims and funding the operation expenses. In order to make the study an operating expense, she felt there needed to be a close connection between the Fund and the spending of those dollars so as to ward off any speculation of impropriety.

REP. BILL WILSON, HD 46, GREAT FALLS, stated he did not quite understand who paid whom, now that the Department of Labor was involved as well. **CHAIRMAN JOHNSON** advised he was the one to bring the department in because of the floor amendment. **Ms. Butler** replied the state money was for the cost of the committee meetings, travel and such; the Department of Labor would incur these expenses, and the State Fund would reimburse them.

REP. LEWIS visualized contracting the Department of Labor to do a study of the operations of the State Fund, or a performance review, without violating the statutes with regard to usage of premium dollars. **Ms. Butler** replied if the State Fund determined the department could provide the service, they would be able to contract for that. **REP. LEWIS** commented the Legislature would make that determination; contracting for this service would not violate any restrictions as to the use of the funds. He added the Legislature would ask for the review, and set up a committee to review the findings. **Ms. Butler** felt the distinction could be made that the Legislature was requesting the study because the subject matter, study of the sale, was not something they normally spent their operating funds on. **REP. LEWIS** reminded her the study included more than just a study of the sale; it included the study of comparable operational costs, premiums and such which could be useful information for their operation. **Ms. Butler** still saw a conflict because the study was not a regular operating expense since it was not one of their mandated functions, it merely had a connection to her agency. **REP. LEWIS** wondered if she would change her stance if SB 304 was amended, directing them to purchase the services of an outside entity to perform this review. **Ms. Butler** stated she needed to think about his suggestion, and **REP. LEWIS** explained if her objection was they did not have a requirement to spend the money, the Legislature could make it one. **Ms. Butler** advised the funds they collected were held in trust, as mandated by law. She repeated they did support the study but she saw the need to create a closer nexus to an operating expense for it.

SEN. ANDERSON commented he saw a misconception as to the scope of the study; should it focus on the feasibility of the sale of the State Fund only or should it be all encompassing of its operations. He also feared the \$100,000 may not cover a full operations study; the scope of the study determined whether or not the funds could be expended to another entity. **Ms. Butler** advised they had asked the sponsor to specify a dollar amount so they could budget for it as part of their operating expense. **SEN. ANDERSON** clarified the bill was merely asking for support; the study group was not asking for either entity to steer the study. In other words, the committee determined the direction of the study and what kind of support was needed. **Ms. Butler** agreed, expecting agendas and notices to be sent out to get the involved parties to meet. **SEN. ANDERSON** advised he would object to **REP. BOOKOUT-REINICKE'S** amendments to not only keep the cost down but also to be able to benefit from the Fund's expertise in the matter.

Motion: SEN. ANDERSON moved that AMENDMENT SB 304-1 NOT BE CONCURRED IN. Motion carried with SEN. JOHNSON and SEN. ANDERSON voting aye and REP. MORGAN and REP. WILSON voting aye, and REP. LEWIS voting no.

CHAIRMAN JOHNSON stated he would have SEN. COCCHIARELLA look at the committee's work and keep the vote open until such time.

Note: SEN. COCCHIARELLA elected not to sign the committee report; it passed as above.

ADJOURNMENT

Adjournment: 5:10 P.M.

SEN. ROYAL JOHNSON, Chairman

MARION MOOD, Secretary

DL/RJ/

EXHIBIT (frs81sb0304aad)